

Re. : Response to Office Action Mailed January 14, 2005
Appl. No. : 10/692,892
Filed : October 24, 2003

II. REMARKS

Claims 1-37 are currently pending in the application. The Office Action objected to the drawings; provisionally rejected Claims 1, 3-16, 18-23, 25-37; and rejected Claims 1-2 and 4-8. The Office Action also objected to Claim 3 as being dependent upon a rejected base claim, but stated that that Claim 3 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

By the foregoing amendments, Applicants amended Claims 1, 4, 14 and 16; cancelled Claim 3 without prejudice; and added new Claims 38-40 to further clarify, define and/or broaden the claimed invention, and to expedite receiving a notice of allowance. Pursuant to 37 C.F.R. § 1.121(f), no new matter is introduced by these amendments. Applicants believe that Claims 1-40 are now in condition for allowance.

Please note that Applicants' remarks are presented in the order in which the issues were raised in the Office Action for the convenience and reference of the Examiner. In addition, Applicants request that the Examiner carefully review any references discussed below to ensure that Applicants understanding and discussion of the references, if any, is consistent with the Examiner. Further, the following remarks are not intended to be an exhaustive enumeration of the distinctions between any particular reference and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and that reference.

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Response to Objection to the Drawings

The Office Action stated that the drawings are objected to under 37 CFR 1.83(a). In particular, the Office Action stated that the drawings must show every feature of the invention specified in the claims. The Office Action stated that the limitations of Claims 14-37 showing a single support assembly must be shown or the feature(s) canceled from the claim(s).

Applicants respectfully traverse this objection to the drawings because the limitations of Claims 14-37 showing a single support assembly are shown in the drawings. In addition, the specification also discusses the single support assembly. For example, the specification states:

As discussed above, **the support assembly 14** is used to support the table top 12 above a surface such as the ground or floor. **As shown in FIGS. 5-9, an exemplary embodiment of the support assembly 14 includes a first leg 30a and a second leg 30b.**

Paragraph no. [0053] (emphasis added). Thus, the specification states that the support assembly 14 may be used to support the table top 12 above a surface, such as the ground or the floor. The specification also states that the support assembly 14 may include a first leg 30a and a second leg 30b. Further, the specification states that Figures 5-9 show an exemplary embodiment of the support assembly 14 with a first leg 30a and a second leg 30b.

Figures 5-9 of the drawings, as discussed in the specification, show an exemplary embodiment of a single support assembly with a first leg and a second leg. In particular, Figure 5 shows the support assembly 14 with the first leg 30a and the second leg 30b.

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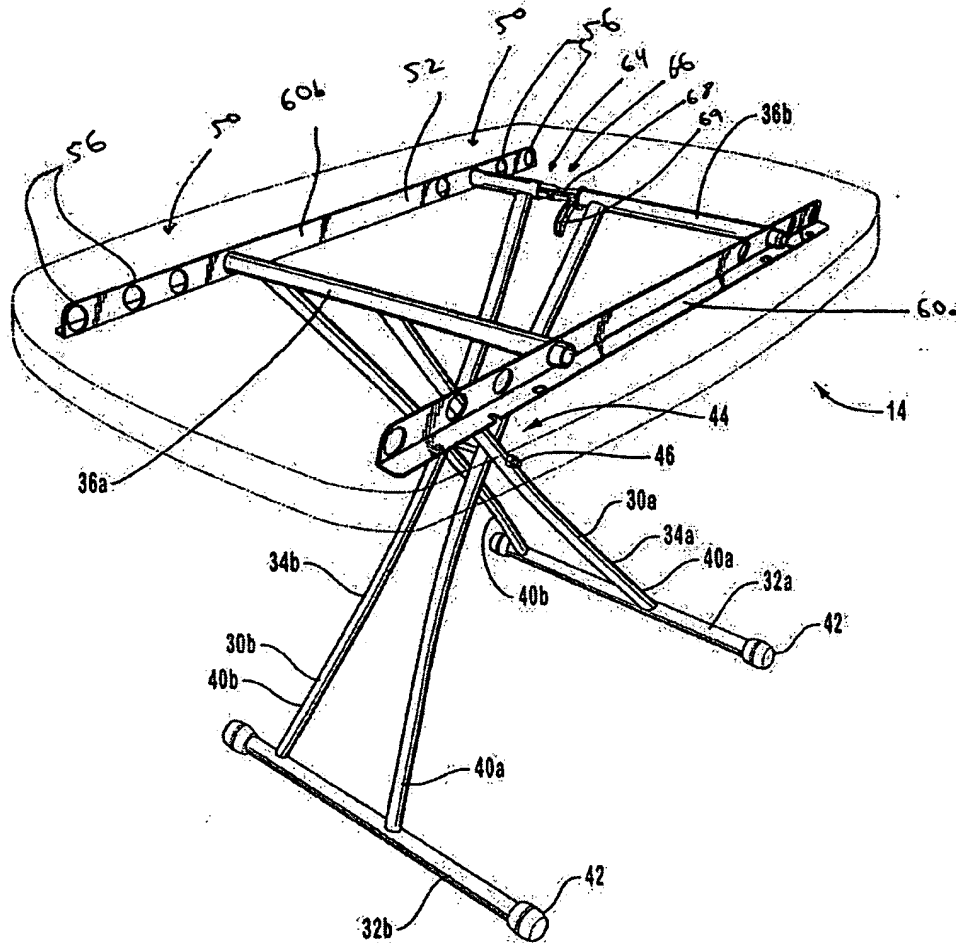


Fig. 5

Therefore, Figure 5 discloses an exemplary embodiment of a single support assembly. Accordingly, the drawings show every feature of the invention specified in the claims. Therefore, Applicants request that this objection to the drawings be withdrawn.

The specification also explains that the legs may include a lower portion, a body portion and an upper portion. For example, the specification states:

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The first leg 30a and the second leg 30b preferably each include a **lower portion 32a, 32b**, a **body portion 34a, 34b**, and an **upper portion 36a, 36b**, respectively.

Paragraph no. [0053] (emphasis added). Thus, the legs 30a, 30b may include body portions 34a, 34b, respectively.

In addition, the specification explains how the body portions of the legs may include one or more elongated members. For example, the specification states:

The body portions 34a, 34b of the legs 30a, 30b preferably consist of one or more elongated members that are used to support the table top 12 above a surface such as the ground or floor. It will be appreciated that the lengths of the body portions 34a, 34b of the legs 30a, 30b are preferably the same so that the table top 12 is supported in a generally horizontal position relative to the support surface and the length of the body portions may help determine the overall height of the table 10. The body portions 34a, 34b of each leg 30a, 30b are preferably constructed from generally hollow members, such as hollow metal tubes, which are lightweight and easy to manufacture, but the body portions may have any desired sizes and/or configurations. The ends of the body portions 34a, 34b are preferably securely connected to the lower portions 32a, 32b of the legs 30a, 30b by welding or other suitable means.

Paragraph no. [0055] (emphasis added). Therefore, the specification makes clear that the body portions 34a, 34b of the legs 30a, 30b may consist of one or more elongated members.

In greater detail, as shown in Figures 5-7, the specification explains that the body portions 34a, 34b of the legs 30a, 30b may include two separate elongated support members 40a, 40b. For example, the specification states:

As best seen in FIGS. 5-7, the body portions 34a, 34b of the legs 30a, 30b may include two separate elongated support members 40a, 40b. Advantageously, body portions 34a, 34b constructed with two separate elongated support members 40a, 40b may help prevent twisting or torque on the connection of the body portions to the lower portions 32a, 32b of the legs 30a, 30b. Additionally, the two separate

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elongated support members 40a, 40b of the body portions 34a, 34b may be curved or spaced apart. In particular, the upper and lower portions of the body portions 34a, 34b may be spaced apart to facilitate connection of the body portions to the lower portion 32a, 32b, which may create a more secure connection.

Paragraph no. [0056] (emphasis added). Therefore, the specification makes clear that the body portions 34a, 34b of the legs 30a, 30b may consist of one or more elongated members. As shown in Figures 5-7, the body portions 34a, 34b of the legs 30a, 30b may include two separate elongated support members 40a, 40b.

The specification also reiterates that the body portions 34a, 34b of the legs 30a, 30b can include any suitable number of support members. For example, the specification states:

It will also be appreciated that **the body portions 34a, 34b may include only a single elongated support member 40a, 40b, or more than two elongated support members if desired.**

Paragraph no. [0057] (emphasis added). Accordingly, the specification explicitly states that the support assembly may include, for example, a first leg 30a and a second leg 30b, and the legs can include any suitable number of support members 40a, 40b. That is, the specification and the drawings show that the single support assembly can include first and second legs, and the legs can include a body portion having one or more support members. Consequently, the specification and the drawings discuss and show an exemplary embodiment of a single support assembly in detail.

In summary, the specification discusses and the drawings show “a single support assembly” as recited in the claims. Therefore, Applicants request that this objection to the drawings be withdrawn.

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Response to Provisional Obvious-Type Double Patenting Rejection

The Office Action provisionally rejected Claims 1, 3-16, 18-23 and 25-37 under the judicially created doctrine of obviousness-type double patenting over Claims 1-28 of co-pending application serial no. 10/340,018. The Office Action acknowledged that the claims are not identical, but stated they are not patentably distinct from each other because both sets of claims teach a table with adjustable folding leg structure. The Office Action stated that the rejection is provisional because the conflicting claims have not in fact been patented. Applicants note that, on July 5, 2005, application serial no. 10/340,018 issued as U.S. Patent No. 6,912,961.

Applicants respectfully traverse this rejection. However, as stated in the Office Action, a timely filed terminal disclaimer in compliance with 37 C.F.R. § 1.321(c) may be used to overcome an actual or provisional rejection based on a non-statutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. *See* 37 C.F.R. § 1.130(b).

Accordingly, in order to expedite receiving a Notice of Allowance, Applicants submit herewith a timely filed terminal disclaimer in compliance with 37 C.F.R. § 1.321(c). Applicants are also submitting herewith a Certificate under 37 C.F.R. § 3.73(b) establishing that U.S. Patent No. 6,912,961 is commonly owned by the Assignee of this application, Lifetime Products, Inc.

Specifically, as set forth in the Certificate under 37 C.F.R. § 3.73(b), Assignee Lifetime Products, Inc. is the owner of U.S. Patent No. 6,912,961. In addition, Lifetime Products, Inc. is the owner of this application because each of the inventors, L. Curtis Strong, S. Curtis Nye, Thayne B.

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Haney and Brandon Smith, assigned his entire right, title and interest in the application to Lifetime Products, Inc. and this document was recorded in the United States Patent and Trademark Office on June 3, 2004, at Reel 014688/Frame 0497. Accordingly, Applicants request that this rejection be withdrawn. This terminal disclaimer is accompanied by the fee set forth in 37 C.F.R. § 1.20(d) in the amount of \$130.00.

Response to Section 102 Rejection

The Office Action rejected Claims 1 and 2 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,168,669 by Arnoff. In particular, the Office Action stated that the Arnoff patent teaches structure substantially as claimed including a table top having an upper and lower surface, first and second leg members pivotally connected (25,31), and leg receiving recesses (18, 21, 22).

Applicants respectfully traverse this rejection because, *inter alia*, the Arnoff patent does not disclose each and every element of the claimed invention. However, as mentioned above, Applicants amended Claim 1 to further clarify, define and/or broaden the claimed invention, and to expedite receiving a notice of allowance.

In particular, Applicants amended Claim 1 to include the limitations of original Claim 3 because the Office Action stated that original Claim 3 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Accordingly, Applicants amended Claim 1 to recite “wherein a length of the upper portion of the first leg is adjustable between a first position in which the first leg can be inserted into a desired pair of leg

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receiving recesses and a second position in which the first leg can be secured within a desired pair of leg receiving recesses.” Please note this language clarifies the language in original Claim 3 which recited “wherein the length of the upper portion of the first leg is adjustable in length between a first position in which the first leg can be inserted into a desired pair of leg receiving recesses and a second position in which the first leg can be secured within a desired pair of leg receiving recesses.”

Accordingly, Applicants submit that Claim 1 is now allowable and request that this rejection be withdrawn. Further, Applicants submit that dependent Claim 2 is allowable at least because this claim depends from Claim 1. Accordingly, Applicants request that the rejection of Claim 2 be withdrawn.

Response to Section 103(a) Rejections

The Office Action rejected Claims 7 and 8 under 35 U.S.C. § 103(a) as being unpatentable over the Arnoff patent. In particular, the Office Action stated that the Arnoff patent teaches structure substantially as claimed and that the positioning of the leg structure offset would have been obvious and well within the level of ordinary skill in the art since such would be a matter of desirability and choice since such structure would perform equally as well.

The Office Action also rejected Claims 4 and 5 under 35 U.S.C. § 103(a) as being unpatentable over the Arnoff patent in view of U.S. Patent No. 6,112,674 to Stanford. In particular, the Office Action stated the Arnoff patent teaches structure substantially as claimed including a table top having an upper and lower surface, first and second leg members pivotally connected (25, 31),

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leg receiving recesses (18, 21, 22) the only difference being that the table is not specifically stated as being blow molding having a plurality of depressions and the recesses include a retaining member. The Office Action stated, however, that the Stanford patent teaches of a plastic table made from blow-molding with retaining members at the recesses (at the lip of 152) and a plurality of depressions. The Office Action concluded that it would have been obvious at the time of the invention to modify the structure of the Arnoff patent to include a plastic table being blow molded having a plurality of depressions and a recess to retain the leg members as taught by Stanford. Additionally, the Office Action stated that such structures are conventional alternative structures used in the same intended purpose of providing a lightweight strong structure and retainment thereby providing structure as claimed.

Additionally, the Office Action rejected Claim 6 under 35 U.S.C. § 103(a) as being unpatentable over the Arnoff patent in view of U.S. Patent No. 5,848,822 to Wu. In particular, the Office Action stated that the Arnoff patent teaches structure substantially as claimed including a table top with structure to provide a "holding" of the collapsed legs; but the Office Action added that the only difference is that a channel is not formed. However, the Office Action stated that the Wu patent (at Figure 3) teaches the use of channels to provide a recessed retainment to be old. The Office Action concluded that it would have been obvious and well within the level of ordinary skill in the art at the time of the invention was made to modify the structure of Arnoff to include channels at the lower surface of the table as taught by the Wu patent since such structure is used in the same intended purpose, thereby providing structure as claimed.

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Applicants respectfully traverse each of these rejections because the cited references, either alone or in combination, do not teach, suggest or disclose each and every element of the claims. However, as discussed above, Applicants amended Claim 1 to include the limitations of original Claim 3. Accordingly, Applicants submit that dependent Claims 4-8 are allowable at least because these claims depend from amended Claim 1. Accordingly, Applicants request that these rejections of Claims 4-8 be withdrawn.

CONCLUSION

If any further impediments to allowance of this application remain, the Examiner is cordially invited to contact the undersigned by telephone so that these remaining issues may be promptly resolved.

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The Commissioner is hereby authorized to charge payment of any other fees associated with this communication or credit any overpayment to Deposit Account No. 23-3178.

Respectfully submitted,

Dated: July 13, 2005

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